

ASSEMBLY BILL

No. 285

Introduced by Assembly Member Negrete McLeod

February 5, 2003

An act to amend Sections 20352, 20638, 31461.3, 31700, 31831, 31833, 31834, 31835, 31835.02, 31837, 31837.1, and 31840.5 of, and to repeal Sections 20355, 20356, 31840.4, 31840.6, and 31840.7 of, the Government Code, relating to public retirement systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 285, as introduced, Negrete McLeod. Public retirement systems: reciprocity.

Existing law provides for reciprocity of retirement benefits, as specified, for a member of the Public Employees' Retirement System or a retirement system established under the County Employees Retirement Law of 1937 who retires concurrently under one of those systems and another specified public retirement system, if the period of time between the member's discontinuance of employment subject to the Public Employees' Retirement System or the retirement system established under the County Employees Retirement Law of 1937 and his or her entry into employment subject to the other system does not exceed 6 months or, in some cases, one year.

This bill would eliminate those restrictions regarding the period of time between the member's public employment subject to the various reciprocal retirement systems and would thereby make those reciprocal benefits available irrespective of the length of that intervening period.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 20352 of the Government Code is amended to read:

20352. The provisions of this part extending rights to a member of this system or subjecting him or her to any limitation, by reason of his or her membership in a county retirement system shall also apply to members who terminated state employment and became an employee of a fire district ~~within six months of the termination~~, and who were employees of the district at the time that the district became subject to the county retirement system.

This section shall only be operative with respect to a county where the board of supervisors has made Section 31840.5 applicable in that county.

SEC. 2. Section 20355 of the Government Code is repealed.

~~20355. Wherever in this part the rights of a member, because of membership in another retirement system, are conditioned upon employment within 90 days of termination of membership in this system or another retirement system, with respect to that employment that occurs on and after January 1, 1976, the period shall be six months rather than 90 days.~~

~~This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.~~

SEC. 3. Section 20356 of the Government Code is repealed.

~~20356. Whenever in this part the rights of a local member, because of membership in another retirement system, are conditioned upon employment within six months of termination of membership in this system or another retirement system, the period shall be one year rather than six months if the local member was an elective officer and becomes a member of another retirement system upon commencement of service in another elective office on and after January 1, 1977.~~

~~This section shall not apply unless the other employer in a reciprocal system elected a similar provision, nor shall it apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions~~

1 of this section in its contract with the board on or before December
2 31, 2001.

3 SEC. 4. Section 20638 of the Government Code is amended
4 to read:

5 20638. The average monthly salary during any period of
6 service as a member of a ~~county~~ *reciprocal* retirement system shall
7 be considered compensation earnable by a member of this system
8 for purposes of computing final compensation for the member
9 provided:

10 (a) ~~(1) Entry into employment in which he or she became a~~
11 ~~member in one system occurred on or after October 1, 1957, and~~
12 ~~within 90 days of discontinuance of employment as a member of~~
13 ~~the other system.~~

14 ~~(2) This subdivision shall not deny the benefit of this section to~~
15 ~~any person retiring after October 1, 1963, who entered~~
16 ~~membership prior to October 1, 1957, if he or she entered the~~
17 ~~employment in which he or she became a member within 90 days~~
18 ~~of termination of employment in which he or she was a member~~
19 ~~of the other system, and he or she became a member within seven~~
20 ~~months of entry into employment, or, if an employee of a district~~
21 ~~as defined in Section 31468, became a member at the time the~~
22 ~~district was included in a county retirement system.~~

23 ~~(b) He if he~~ or she retires concurrently under both systems and
24 is credited with the period of service under the ~~county~~ *reciprocal*
25 system at the time of retirement.

26 SEC. 5. Section 31461.3 of the Government Code is amended
27 to read:

28 31461.3. ~~(a)~~ The average compensation during any period of
29 service as a member of the Public Employees' Retirement System,
30 ~~a member of~~ a retirement system established under this chapter in
31 another county, ~~a member~~ *the Defined Benefit Program* of the
32 State Teachers' Retirement ~~System Plan~~, or ~~a member of~~ a
33 retirement system of any other public agency of the state that has
34 established reciprocity with the Public Employees' Retirement
35 System subject to the conditions of Section 31840.2 shall be
36 considered compensation earnable by ~~a~~ *the* member for purposes
37 of computing final compensation for that member provided:

38 ~~(1) The period intervening between active memberships in the~~
39 ~~respective systems does not exceed 90 days, or six months if~~
40 ~~Section 31840.4 applies.~~

1 ~~(2) He if he~~ or she retires concurrently under both systems and
2 is credited with that period of service under the other system at the
3 time of retirement.

4 ~~(b) This section shall be applied retroactively under this~~
5 ~~chapter in favor of any member whose membership in the Public~~
6 ~~Employees' Retirement System or in a retirement system~~
7 ~~established under this chapter in any county terminated prior to~~
8 ~~October 1, 1957, provided that he or she was eligible to and elected~~
9 ~~deferred retirement therein within 90 days after eligibility for~~
10 ~~reciprocity, the period intervening between active memberships in~~
11 ~~the respective systems did not exceed 90 days, or six months if~~
12 ~~Section 31840.4 applies, and he or she retires concurrently under~~
13 ~~both systems and is credited with that period of service under the~~
14 ~~other system at the time of retirement. The limitation of the 90-day~~
15 ~~or six-month period between the active membership in the two~~
16 ~~retirement systems shall not apply to an employee who entered the~~
17 ~~employment in which he or she became a member of the State~~
18 ~~Employees' Retirement System prior to July 18, 1961; provided~~
19 ~~he or she entered that employment within 90 days, or six months~~
20 ~~if Section 31840.4 applies, after the termination of employment~~
21 ~~in the county system, whether that employment is with the state or~~
22 ~~with a county, a city, or other public agency that contracts with the~~
23 ~~Public Employees' Retirement System, the State Teachers'~~
24 ~~Retirement System, or a retirement system of any other public~~
25 ~~agency of the state that has established reciprocity with the Public~~
26 ~~Employees' Retirement System subject to the conditions of~~
27 ~~Section 31840.2.~~

28 SEC. 6. Section 31700 of the Government Code is amended
29 to read:

30 31700. (a) Any member, whether over or under the minimum
31 age of voluntary service retirement, who leaves county service
32 after completing five years of service or who leaves county service
33 and ~~within 90 days, or six months if Section 31840.4 applies;~~
34 becomes a member of the Public Employees' Retirement System,
35 a retirement system established under this chapter in another
36 county, *the Defined Benefit Program of the State Teachers'*
37 ~~Retirement System Plan~~, or a retirement system of any other
38 public agency of the state that has established reciprocity with the
39 Public Employees' Retirement System subject to the conditions of
40 Section 31840.2, may elect in writing, within 90 days after

1 establishing eligibility for reciprocity, to leave his or her
2 accumulated contributions in the retirement fund and be granted
3 a deferred retirement allowance to become effective either:

4 (1) Upon the option of the member, at any time at which he or
5 she could have retired had he or she remained in county service in
6 a full-time position.

7 (2) Not later than the first day of the month following that in
8 which he or she attains the applicable compulsory retirement age,
9 if any.

10 (b) Any member who is eligible to be granted a deferred
11 retirement allowance under subdivision (a) because he or she has
12 completed five years of service but who fails to so elect, shall be
13 deemed to have elected a deferred retirement.

14 (c) Any member, regardless of service, whose retirement
15 system coverage ceases but who does not terminate employment
16 shall leave his or her accumulated contributions in the retirement
17 fund, and interest shall continue to be credited pursuant to Section
18 31591, until the member retires or terminates employment.

19 SEC. 7. Section 31831 of the Government Code is amended
20 to read:

21 31831. Any member, whether over or under the minimum age
22 of service retirement, who leaves county service and ~~within 90~~
23 ~~days or six months if Section 31840.4 applies~~ thereafter becomes
24 a member of the Public Employees' Retirement System, a
25 retirement system established under this chapter in another county,
26 ~~a member of the Defined Benefit Program of the State Teachers'~~
27 ~~Retirement System Plan~~, or a member of a retirement system of
28 any other public agency of the state that has established reciprocity
29 with the Public Employees' Retirement System subject to the
30 conditions of Section 31840.2, regardless of the amount of county
31 service, may elect deferred retirement pursuant to Article 9 of this
32 chapter, except that he or she may not, after that election, rescind
33 the election or withdraw any of his or her accumulated
34 contributions while a member of ~~such~~ *the* other system.

35 SEC. 8. Section 31833 of the Government Code is amended
36 to read:

37 31833. For the purpose of this article and Articles 6 and 6.8
38 of this chapter, age at time of entrance into the retirement system
39 for a person who enters ~~within 90 days, or six months if Section~~
40 ~~31840.4 applies, or last~~ *county service after rendering service as*

1 a member of the Public Employees' Retirement System, another
2 retirement system established under this chapter, *the Defined*
3 *Benefit Program of the State Teachers' Retirement System Plan*,
4 or a retirement system of any other public agency of the state that
5 has established reciprocity with the Public Employees' Retirement
6 System subject to the conditions of Section 31840.2, and who
7 retains his *or her* membership in ~~such~~ *that* other system or
8 systems, shall be his *or her* age at entry into the first ~~such other~~
9 system.

10 SEC. 9. Section 31834 of the Government Code is amended
11 to read:

12 31834. Notwithstanding Section 31558 and regardless of age
13 at entry into the system in counties subject to the provisions of
14 Section 31676.1 and in counties electing pursuant to Section
15 31695.1, a person shall become a safety member on the first day
16 of the calendar month following his *or her* entrance into service in
17 a position the principal duties of which are defined in ~~Sections~~
18 *Section 31470.2, 31470.4 or 31470.6*, if ~~such first day of the~~
19 ~~calendar month is within 90 days, or six months if Section 31840.4~~
20 ~~applies of last rendering~~ *that person previously performed* active
21 police or fire suppression or lifeguard work as a member of the
22 Public Employees' Retirement System ~~or~~, a retirement system
23 established under this chapter in another county, *the Defined*
24 *Benefit Program of the State Teachers' Retirement System Plan*,
25 or a retirement system of any other public agency of the state that
26 has established reciprocity with the Public Employees' Retirement
27 System subject to the conditions of Section 31840.2, and the
28 person retains his *or her* membership in ~~such~~ *the* other system.

29 SEC. 10. Section 31835 of the Government Code is amended
30 to read:

31 31835. The average compensation during any period of
32 service as a member of the Public Employees' Retirement System,
33 ~~a member of the Judges' Retirement System or Judges' Retirement~~
34 ~~System II, a member of a retirement system established under this~~
35 ~~chapter in another county, a member of the Defined Benefit~~
36 ~~Program of the State Teachers' Retirement System Plan, or a~~
37 ~~member of a retirement system of any other public agency of the~~
38 ~~state that has established reciprocity with the Public Employees'~~
39 ~~Retirement System subject to the conditions of Section 31840.2,~~
40 shall be considered compensation earnable by ~~a~~ *the* member for

purposes of computing final compensation for that member provided:

~~(1) The period intervening between active memberships in the respective systems does not exceed 90 days, or 6 months if Section 31840.4 applies. That period shall not include any time during which the member was prohibited by law from becoming a member of the system of another county.~~

~~Notwithstanding anything in this chapter to the contrary, the 90-day or 6-month restriction referred to in this section or any other provision of this chapter effecting deferred retirement shall not be applicable to any members who left county or district service prior to October 1, 1949, and subsequently redeposited.~~

~~(2) He if he or she retires concurrently under both systems and is credited with the period of service under that other system at the time of retirement.~~

The provisions of this section shall be applicable to all members and beneficiaries of the system.

SEC. 11. Section 31835.02 of the Government Code is amended to read:

31835.02. (a) Notwithstanding any other provision of this part, Section 31835 shall also apply *applies* to any member who was a member of a retirement system established under this chapter and who subsequently becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, *the Defined Benefit Program of the State Teachers' Retirement System Plan*, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, ~~providing the period intervening between the periods for which active service was credited does not exceed 90 days, or six months if Section 31840.2 applies, and if~~ the member retires concurrently under both systems and is credited with the periods of service at the time of retirement.

(b) This section shall only be operative in any county of the fourth class as described in Sections 28020 and 28025 if it is adopted by a majority vote of the board of supervisors.

(c) *The amendments to this section adopted during the first year of the 2003-04 Regular Session shall be operative, without any further action by the board of supervisors, in any county of the*

1 *fourth class, as described in Sections 28020 and 28025, that has*
2 *adopted this section as provided in subdivision (b).*

3 SEC. 12. Section 31837 of the Government Code is amended
4 to read:

5 31837. Any member who elects, pursuant to Section 31700
6 ~~and 31832~~, 31831, 31831.1, 31831.2, or 31831.3, to leave his
7 accumulated contributions on deposit may be retired for disability,
8 regardless of age or length of service, and receive a disability
9 retirement allowance under this article based on the service
10 credited to him *or her* at the time of retirement during any period
11 thereafter in which he *or she* receives a disability retirement
12 allowance under the Public Employees' Retirement System or a
13 retirement system established under this chapter in another county,
14 subject to the following conditions:

15 ~~(1) That such allowance shall not be paid if the period~~
16 ~~intervening between the last service credited under this system and~~
17 ~~his becoming a member in such other system exceeds 90 days.~~

18 ~~(2) That if~~

19 (a) *If* the member is retiring for non-service-connected
20 disability, and, if a safety member has not attained *the* age of 55
21 years, or if a nonsafety member has not attained *the* age of 65 years,
22 his *or her* retirement allowance shall be as calculated pursuant to
23 Section 31838.

24 ~~(3) That such~~

25 (b) *The* allowance shall be an annuity ~~which~~ *that* is the actuarial
26 equivalent of the member's accumulated contributions when
27 retirement under the other system is for disability arising out of and
28 in the course of employment subject to ~~such~~ *that* other system.

29 SEC. 13. Section 31837.1 of the Government Code is
30 amended to read:

31 31837.1. Notwithstanding Sections 31837 and 31838, any
32 member covered under Section 31751 who elects, pursuant to
33 ~~Sections~~ Section 31700 ~~and 31832~~, 31831, 31831.1, 31831.2, or
34 31831.3, to leave *his or her* accumulated contributions on deposit
35 may be retired for disability and receive a disability retirement
36 allowance under this section during any period hereafter in which
37 the member receives a disability retirement allowance under the
38 Public Employees' Retirement System, a retirement system
39 established under this chapter in another county, *the Defined*
40 *Benefit Program* of the State Teachers' Retirement ~~System~~ *Plan*,

or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, subject to all of the following conditions:

(a) ~~That such allowance shall not be paid if the period intervening between the last service credited under this system and becoming a member in such other system exceeds six months.~~

~~(b) That, if~~ If the member is retiring for non-service-connected disability, the disability requirements shall be that of the other system and the member's retirement allowance shall be based on the other system's disability benefit formula. The disability benefit received in the county shall be calculated as if all of the member's service was in the other system but then prorated using the ratio of service in this county to the total service in both systems.

~~(c) That, if~~

(b) If the member is retiring for disability arising out of and in the course of employment subject to ~~such~~ the other system, the allowance to the member shall be an annuity ~~which~~ that is the actuarial equivalent of the member's accumulated contributions at the time of retirement.

SEC. 14. Section 31840.4 of the Government Code is repealed.

~~31840.4. Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within 90 days of termination of employment covered by a system under this chapter or another retirement system, with respect to such reemployment which occurs on and after January 1, 1976, such period shall be six months rather than 90 days.~~

~~This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.~~

SEC. 15. Section 31840.5 of the Government Code is amended to read:

31840.5. The provisions of this chapter extending rights to a member of a county retirement system established under this chapter or subjecting him or her to any limitation, by reason of his or her membership in the Public Employees' Retirement System

1 shall also apply to members who terminated state employment and
2 became employees of a district ~~within six months of such~~
3 ~~termination~~ and who were employees of ~~such~~ that district at the
4 time that the district became subject to the county retirement
5 system. Any change in a member's contribution rate shall become
6 effective on January 1, 1977, and a member whose rate is reduced
7 ~~shall is not be~~ entitled to any payment with respect to his *or her*
8 rate of contribution prior to that date.

9 This section ~~shall is not be~~ operative in any county until ~~such~~
10 ~~time as~~ the board of supervisors ~~shall~~, by resolution adopted by
11 majority vote, ~~make~~ *makes* the provisions of this section
12 applicable in ~~such~~ the county.

13 SEC. 16. Section 31840.6 of the Government Code is
14 repealed.

15 ~~31840.6. Whenever in this chapter the rights of a member,~~
16 ~~because of membership in another retirement system, are~~
17 ~~conditioned upon reemployment within six months of termination~~
18 ~~of membership in a system under this chapter or another retirement~~
19 ~~system, such period shall be one year rather than six months if the~~
20 ~~member was an elective officer and becomes a member of a system~~
21 ~~established under this chapter upon commencement of service in~~
22 ~~another elective office on and after January 1, 1977.~~

23 This section shall not be applicable in any county until adopted
24 by the board of supervisors nor until the other employer in a
25 reciprocal system elects a similar provision.

26 SEC. 17. Section 31840.7 of the Government Code is
27 repealed.

28 ~~31840.7. Wherever in this chapter the rights of a member,~~
29 ~~because of membership in another retirement system, are~~
30 ~~conditioned upon reemployment within a specified period after~~
31 ~~termination of employment covered by a system under this chapter~~
32 ~~or another retirement system, the period shall be one year in the~~
33 ~~case of any member who was reemployed on or after January 1,~~
34 ~~1989, and whose termination of employment was due to layoff~~
35 ~~because of, a lack of work, a lack of funds, or a reduction in~~
36 ~~workforce.~~

1 ~~This section shall not be operative in any county until the time~~
2 ~~that the board of supervisors, by resolution adopted by a majority~~
3 ~~vote, makes the provision applicable in that county.~~

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